

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, *et al.*

Plaintiffs,

v.

UNITED STATES OF AMERICA, *et al.*

Defendants.

No. 1:14-cv-254

ADVISORY

Defendants file this Advisory to inform the Court that they do not intend to file any further reply to Plaintiffs’ opposition brief [ECF No. 175] in order to expedite consideration of their stay motion and because a stay should be granted for all the reasons previously explained in Defendants’ motion and attached declarations. *See* Defs.’ Emergency Expedited Mot. to Stay the Court’s Feb. 16 Order Pending Appeal [ECF No. 150]; Decl. of Sarah R. Saldaña, Director of U.S. Immigration and Customs Enforcement (“ICE”) [ECF No. 150-1]; Decl. of R. Gil Kerlikowske, Commissioner of U.S. Customs and Border Protection (“CBP”) [ECF No. 150-2].¹

¹ Plaintiffs wrongly assert that this Court should disregard the ICE and CBP declarations because they were submitted in support of Defendants’ stay motion, rather than in opposition to Plaintiffs’ preliminary injunction motion. Defendants, however, have submitted these declarations to demonstrate that Defendants would be “irreparably harmed” by the entered injunction. *See Planned Parenthood of Greater Tex. Surgical Health Servs. v. Abbott*, 734 F.3d 406, 410 (5th Cir. 2013) (standard for staying a preliminary injunction pending appeal includes consideration of irreparable harm to Defendants caused by the entered injunction); *see also Moore v. Tangipahoa Parish Sch. Bd.*, 507 F. App’x 389 (5th Cir. 2013) (granting stay of preliminary injunction where defendants attached new affidavit to their stay motion in district court); *Watson v. FEMA*, 2006 WL 3420613 (5th Cir. 2006) (vacating preliminary injunction where defendant attached new declaration to its stay motion in district court); *Karaha Bodas Co., L.L.C. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Nebara*, 264 F. Supp. 2d 484, 487

Accordingly, Defendants respectfully request expedited consideration of their motion and a ruling as soon as possible. Absent a ruling by close of business on Monday, March 9, 2015, Defendants may seek relief from the Court of Appeals in order to protect their interests.

Dated: March 4, 2015

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Respectfully submitted,

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/s/ Kyle R. Freeny
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& n.4 (S.D. Tex. 2002) (expressly considering new declarations appended to defendant's stay motion in deciding whether to grant stay).

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Advisory has been delivered electronically on March 4, 2015, to counsel of record via the District's ECF system.

/s/ Kyle R. Freeny
Counsel for Defendants